

**UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS**

RUSSELL COLBETH,

Plaintiff,

v.

STACIE COLBETH et al.,

Defendants.

**Civil Action No.
15-13179-WGY**

MEMORANDUM AND ORDER

YOUNG, D. J.

For the reasons stated below, the Court grants plaintiff's motion to proceed *in forma pauperis*, and dismisses this action for lack of subject matter jurisdiction.

I. Background

On August 17, 2015, *pro se* plaintiff Russell Colbeth filed a self-prepared complaint alleging Stacie Colbeth slandered him, Dr. David Medoff committed malpractice by diagnosing him as paranoid and schizophrenic, T-Mobile denied him access to the internet by slowing his speed down, Uber requested Hirease to do a background check resulting in a false report, Hirease falsely claimed plaintiff was a sex offender, and Staples downloaded proprietary materials from plaintiff's computer. Docket Entry No. 1, Complaint. Plaintiff seeks leave to proceed *in forma pauperis* (Docket Entry No. 6).

This is the second federal court in which the plaintiff has brought almost identical allegations against the same parties. *See Colbeth v. Colbeth*, No. 15-CV-228-PB (D.N.H.), Docket Entry No. 1, Complaint. In fact, eleven days prior to filing the instant action, the United States District Court for the District of New Hampshire dismissed plaintiff's prior action for lack

of subject matter jurisdiction. *See Colbeth v. Colbeth*, No. 15-CV-228-PB, 2015 WL 4675051 (D.N.H. Aug. 6, 2015).

II. Discussion

A. Plaintiff's Motion to Proceed *in forma pauperis* is Granted

The Court has reviewed plaintiff's motion to proceed *in forma pauperis* and finds that it is meritorious. Plaintiff's request to proceed *in forma pauperis* is therefore granted.

B. Plaintiff's Action is Dismissed for Lack of Subject Matter Jurisdiction

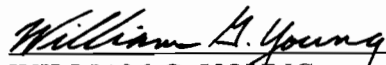
Plaintiff's action must be dismissed for lack of subject matter jurisdiction. Diversity jurisdiction is absent under 28 U.S.C. §1332. Diversity jurisdiction is established in cases where there is: (1) \$75,000 in controversy and, (2) the civil action is between the citizens of different states. *See* 28 U.S.C. § 1332(a)(1). "Diversity jurisdiction exists only when there is *complete* diversity, that is, when no plaintiff is a citizen of the same state as any defendant." *Gabriel v. Preble*, 396 F.3d 10, 13 (1st Cir.2005)(emphasis in original). Here, plaintiff is a Massachusetts citizen alleging claims against Stacie Colbeth and Dr. David Medoff, who are also allegedly Massachusetts citizens. Because the parties are not completely diverse, there is no diversity jurisdiction. And, because there is no cognizable federal question alleged, or other basis for federal jurisdiction apparent, the Court is without subject matter jurisdiction over this matter.

III. Conclusion

For the foregoing reasons, the application to proceed *in forma pauperis* is GRANTED, and this action is DISMISSED without prejudice.

So Ordered.

Dated: November ~~21~~, 2015


WILLIAM G. YOUNG
United States District Judge